Vol. 4. Numb. 44.

THE REHEARSAL.

1. What a *Fool* the *Observator* has made of *Liberty*.
2. How the *Review* mends the Matter, to prove *Preſſing* to be no *Invaſion* of *Liberty*.
3. He makes ſome to be *Slaves*, and ſome *Free* Men, for the ſame thing.
4. The Caſe of *Ship-Money*. And Partiality of *Ruſhworth*.
5. The *Remedy* for *Ship-Money* worſe than the *Diſeaſe*.
6. The *Illegal* Proceedings againſt the *King* upon it.
7. What the *Whiggs* get by bringing in theſe Stories.
8. Of all *Corporation-Right* being Granted by the *Freeholders*.

SATURDAY, *March* 12. 1708.

(1.) *Country-man.* THE ſilly *People* have been long Dinn'd with *Liberty* and *Property*, and are at laſt put off with a Mouthful of *Moon-ſhine* by the *Orators* for the Power of the *People*. They have been hard put to it how to reconcile this *Liberty* with *Preſſing* Men to the *War*, putting them in *Priſon* to ſecure them, and Forcing them out of the Kingdom to face *Cannon*, much againſt their *Stomachs!*

Rehearſal. I remember *Tutchin Observator* found out a Notable Argument upon this Head. He ſaid that *Impriſonment* did not take away *Liberty*. Why? Becauſe a Man in *Priſon* has *Liberty* to Walk about his Room.

Country-m. And if he were Chain'd to a *Poſt*, he had *Liberty* to go the Length of his *Chain*—— What a *Fool* have they made of *Liberty*!

(2.) *Rehearſ.* But the *Review* of the 20 *January* laſt, Vol. 5. N. 128. p: 511. has at laſt found out the the true Notion of *Liberty*. He ſays, *Invaſion of Liberty ſeems to be preſcrib'd, not to the Degree of Neceſſity, but to the Right of Judging*—— That is, who is *Judge* when ther is ſuch a *Neceſſity* as to make it Requiſit to Reſtrain the *Liberty* of the *People*, ſo as to Levy *Money* off them, and Oblige them to bear *Arms* for the Defence of the Nation. For thus he go's on and Explains it,

" If the *Prince* or the *General*, or even " the *Magiſtrates* make themſelves Judges " of this Neceſſity, it is *Illegal* and *Oppreſ-* " *ſive*. This was the Caſe of *Ship-Money*, " condemn'd by Parliament, and by all the " great Lawyers of the Nation; the Pre- " tence was, *in Caſe of Neceſſary Defence.* " Now the Objection was not whether " there was a Neceſſity or no, but whether " the *King* was Judge of that Neceſſity, and " had Authority to determine it, and to le- " vy the money without the Conſent of the " People?

And in this Inſtance he thinks himſelf ſecure. And proceeds to his Concluſion in the following Words,

" Here all theſe Diſputes are taken away. " The *People* are the Judges of their own " Neceſſity, and Determin in Parliament, " that ſuch and ſuch of their own Body ſhall " upon ſuch and ſuch Encouragements be " oblig'd to take Arms to Defend the reſt; " and as nothing can be more Equal than " the Appointment; So in our Conſtitution " there can be nothing Plainer, than that " this is perfectly Clear of any Invaſion of " *Liberty*.

(3.) *Country-m.* It is my Turn to Anſwer him Now, for there is little difficulty in this Caſe. His Argument is, That it is no *Invaſion* of *Liberty* which is done according to the *Conſtitution*. Now in Abſolute *Monarchys* he will not deny but the *Prince* is *Judge* of the *Neceſſity*, and therefore that there is no *Invaſion* of *Liberty* whatever he Commands. And where there is no *Invaſion* of *Liberty*, there is perfect *Freedom*. Why then do we call other Subjects *Slaves*, and our ſelves the only *Free-men!* If you ſee an *Engliſh* man that is *Preſs'd* go like a *Hang-Dog*, and making *Faces*, you Cry, there goes a *Free* man! But if a *French* man *Sing* and *Dance* under his *Arms*, you ſay, that Fellow is a perfect *Slave!* And his *Liberty* is *invaded*! O, what it is to be a Free-Born-*Engliſh* Man!

Rehearſ. You have him Right, *Country-man*, And thus End all there Dull and ſenſleſs

Declamations

Declamations about *Liberty!* They neither know what it is, or where to find it.

(4.) But I must say a word as to his Instance of *Ship-Money*. Ther is a Gall of *Bitterness* in all these *Whigs* against the Memory of that Glorious *Martyr* K. *Char.* I. They are not Satisfy'd with his *Blood*! They cannot let him Rest in his *Grave* after they have *Murder'd* him! Let the *Review* then know, That all the *Judges* in *England* gave it under their hands, that the *King* was the only *Judge* of the *Necessity*. And therefore that the Levying of *Ship-Money* was *Legal*. I had in *Manuscript* all the *Arguments* as well of the *Judges* in the *Exchequer Chamber*, as of the *Council* at the Bar, on both sides, upon the Case of *Ship-Money*. Two of the Judges, *Hutton* and *Crook* (as I remember their Names) did afterwards Retract their Opinions, and Run in with the Stream of the Times. The Arguments of these *Two* against *Ship-Money* are Inserted at large in *Rushworth's Collections*: But not a Word of all the others that were for it. Therefore I call him a *False Historian*, for *Concealing* the *Truth* is giving *False Evidence*. And an Impartial *Historian* shou'd set down the *Fact* on both sides, and let the *Reader* Judge. Thus too he dealt in the Dispute betwixt *Abbot* and *Laud*, he gives us the Defence which *Abbot* made, but not that of *Laud*. He plainly wrote on one side, he was *Secretary* to *Fairfax*, and Engag'd in the *Cause*.

(5.) But to Return to the Case of *Ship-Money*. From whom shou'd the *King* know the *Law* but from the *Judges*? And the *Parliament* that over-Rul'd the *Judges* herein, were then Engag'd in a *Rebellion* against the *King*, and took this for a Handle. And how did they Rectify it? They Levy'd more per *Month* upon the City of *London*, than the *Ship-Money* came to in a year over the whole *Nation*. And this, without any *Form* or Colour of *Law*. The *Commons* without *King* or *Lords*, Empowr'd *Four* of their own Number to value the *Estates* of all but their own at what they thought fit, and to Levy within the 20th. Part of it, to Distrain by the *Train-Bands*, and for want of Sufficient *Distress*, to *Compound* or *Discharge* all *Debts* due to the Party; and if they Suspected he Conceal'd any *Debts* due to him, to *Imprison* him during Pleasure, and to *Banish* his *Wife* and *Children* so many Miles from *London*. My Lord *Clarendon* in his *History* gives an Account of this at Large.

(6.) But now, to come to the utmost. Let us suppose that *Ship-Money* was *Illegal*. What do's the *Law* direct in such a Case? The *Law* says *the King can do no Wrong*. But his *Ministers* only are Answerable. And, as *Bracton* says, the *King* shall be Humbly Supplicated to Redress any *Wrong* that is done. If he do's, ther's an End, and the *People* ought to be Thankful. But even tho' he shou'd not, yet the *Law* allows of no Remedy by *Coercion* or taking *Arms* against him. But as *Bracton* says, *Sufficit ei pro pœna quod Deum expectet Ultorem, nam Superiorem non habet in Terris*. That it must be Refer'd to *God*, for that the *King* has no *Superior* upon Earth. Now see how it was in the Case of *Ship-Money*. The *King* did Redress it and gave it up, upon the Representation of the *Parliament*, and Offer'd all Security that the like shou'd be done no more. But this Quieted not the *Rebellion*. They Clamour'd upon it, after it was Redress'd, (as you see they do to this Day,) and wou'd take no *Security* but to pull the *Crown* from his *Head*, and to *Secure* that Act, to take his *Head* from his *Shoulders*!

(7.) *Country-m.* How oft have you been Reprov'd by the *Observator* and *Review* for Mentioning any thing of the Times of *Forty One*. They told you of the *Act of Oblivion* after the *Restoration*, and that all these things ought to be *Bury'd*. Yet they never miss an Opportunity to strike at the *Church* and the *King* in those *Times!* And if you Reply to them, they call you an *Incendiary!* But as often as they call these thing to mind, they do it to their Cost.

(8.) *Rehears.* But what Answer will you give to what is said in the same *Review*, and the same *Page* above Quoted? *That all Corporation Right is the Grant of the Freeholders, and Consequently all others*— that is, as he words it, *whether Supream or Subordinate*. Whether the Right of the *Crown*, of *Parliament*, &c.

Country-m. Wou'd he do us the Favour, to shew us one of these *Grants* from the *Freeholders?* All *Charters* of *Corporations* that we know of are from the *Crown*. And the *Crown* brings *Quo Warrantoes* against them, by *Law*, if they Exceed the *Powers* Granted them in their *Charters*. And it is the *Crown* which Grants Power to *Freeholders* of such a *Value* to *Vote*, and Excludes others. Let him shew where the *Freeholders* made this *Regulation* among themselves. Has he a *Freehold* to Impose upon the *People* at this Rate?

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